

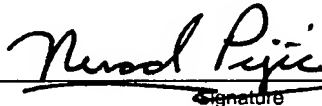
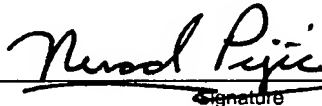
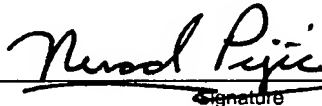


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PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)												
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		10/781,477	February 17, 2004											
		First Named Inventor												
		Martinez et al.												
		Art Unit	Examiner											
		2113	A. Riad											
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table border="0"><tr><td><input type="checkbox"/> applicant/inventor.</td><td rowspan="3"> _____ Signature</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td></tr><tr><td><input type="checkbox"/> attorney or agent of record. Registration number _____</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>37,415</u></td><td><u>Nenad Pejic</u> _____ Typed or printed name</td></tr><tr><td></td><td><u>216-622-8835</u> _____ Telephone number</td></tr><tr><td></td><td><u>May 14, 2007</u> _____ Date</td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <table border="1"><tr><td><input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.</td></tr></table>				<input type="checkbox"/> applicant/inventor.	 _____ Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<input type="checkbox"/> attorney or agent of record. Registration number _____	<input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>37,415</u>	<u>Nenad Pejic</u> _____ Typed or printed name		<u>216-622-8835</u> _____ Telephone number		<u>May 14, 2007</u> _____ Date	<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.
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	<u>May 14, 2007</u> _____ Date													
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.														

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Dennis Ditzzenberger  
Signature Dennis Ditzzenberger

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Martinez et al.	:	Examiner: A. Riad
	:	
Ser. No.: 10/781,477	:	Art Unit: 2113
	:	
Filed: Feb. 17, 2004	:	HP PD No. 200314423-1
	:	
For: System and Method for Reboot Reporting	:	Confirmation No. 3109

**Pre-Appeal Brief Request for Review**

Mail Stop AF  
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Applicant requests review of the final rejection in the above-identified application.  
No Amendments are being filed with this request.

**Remarks**

All claims stand rejected under § 102(e) in view of U.S. Pat. No. 6,732,298 to Murthy et al. (hereinafter "Murthy"). It is well-known that under § 102, anticipation requires **each and every claim element to be found in a single reference.**

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987). If a claim element is missing from a relied upon reference, a rejection under § 102 cannot be sustained.

Independent claim 1 is directed to a method of “reboot reporting” that includes, among other things, the step of:

“generating at least one **non-maskable interrupt** signal” (emphasis added).

Claims 6, 13, 20, 22, and 26 are similar. Claim 6 describes “at least one processor and at least one **non-maskable interrupt** output.” Claim 13 describes “means for outputting a **non-maskable interrupt** signal . . . .” Claims 20 and 22 describe “a **non-maskable interrupt** signal circuit . . . .” Claim 26 describes “means for generating a **non-maskable interrupt** signal.” (Emphasis added).

In order for a rejection under § 102 to be sustained, it is clear that the relied-upon Murthy reference must disclose a non-maskable interrupt. It is respectfully submitted that Murthy **clearly does not** disclose a non-maskable interrupt and, therefore, the rejection under § 102 cannot be sustained. In particular, the Abstract of Murthy unequivocally states that non-maskable interrupts are not used:

“A system and method is disclosed for debugging of a hardware board that includes a processor with only a **single level of interrupts** that are either all enabled or all disabled. **The processor does not implement nonmaskable interrupts.**” (Emphasis added).

Nevertheless, the final rejection attempts to sustain the § 102 rejection by relying on Murthy’s Summary of the Invention, which states:

“The problems noted above are solved in large part by a single level interrupt processor on the array controller board that contains a critical failure input line that permits implementation of a nonmaskable pseudo-interrupt for debugging of the array controller. The nonmaskable pseudo-interrupt informs the processor of a debug request even when all device interrupts in the processor are disabled and the array controller board is inoperative.”

In particular, it appears that the final rejection is relying on the disclosure an “array controller board that contains a critical failure input line that permits implementation of a **nonmaskable pseudo-interrupt** for debugging of the array controller” (emphasis added).

In ordinary English usage, the word “pseudo” means “false or counterfeit; fake.” (See, “pseudo.” *The American Heritage® Dictionary of the English Language*, 4th ed. Boston: Houghton Mifflin, 2000. [www.bartleby.com/61/](http://www.bartleby.com/61/). [accessed May 2, 2007]. Because the processor of Murthy “**does not implement nonmaskable interrupts**” (Abstract), Murthy adapts a different signal -- a critical failure input line -- and refers to it as a nonmaskable psuedo (*i.e.*, false or counterfeit; fake) interrupt. Due to the acknowledged lack of non-maskable interrupts, Murthy takes a different approach by relying on a critical failure input line which is identified as a machine check exception signal 61. Hence, the relied-upon Summary of the Invention is consistent with the Abstract in that non-maskable interrupts are **expressly** not implemented by Murthy.

Therefore, it is respectfully submitted that the **§ 102 rejection** of the independent claims cannot be sustained because Murthy expressly discloses that its processor **does not implement nonmaskable interrupts**.

Dependent claim 5 requires “counting the number of times the non-maskable interrupt signal is generated.” The final rejection asserts that this limitation is met by the following Murthy disclosure:

“As shown in FIG. 2, various interrupts (int 0, int 1, int 2 . . . ) are generated by the devices given in FIG. 1 and FIG. 2 and are handled by processor 58.”

In particular, the final rejection states that the “Examiner considers the listing of int0, int1, int2, as counting interrupts” (p. 16). The listing in the cited Murthy disclosure is clearly a reference to the structure shown in Figure 2, which has been reproduced below with arrows annotating the structure, and not a process step of “counting the number of times the non-maskable interrupt signal is generated.”

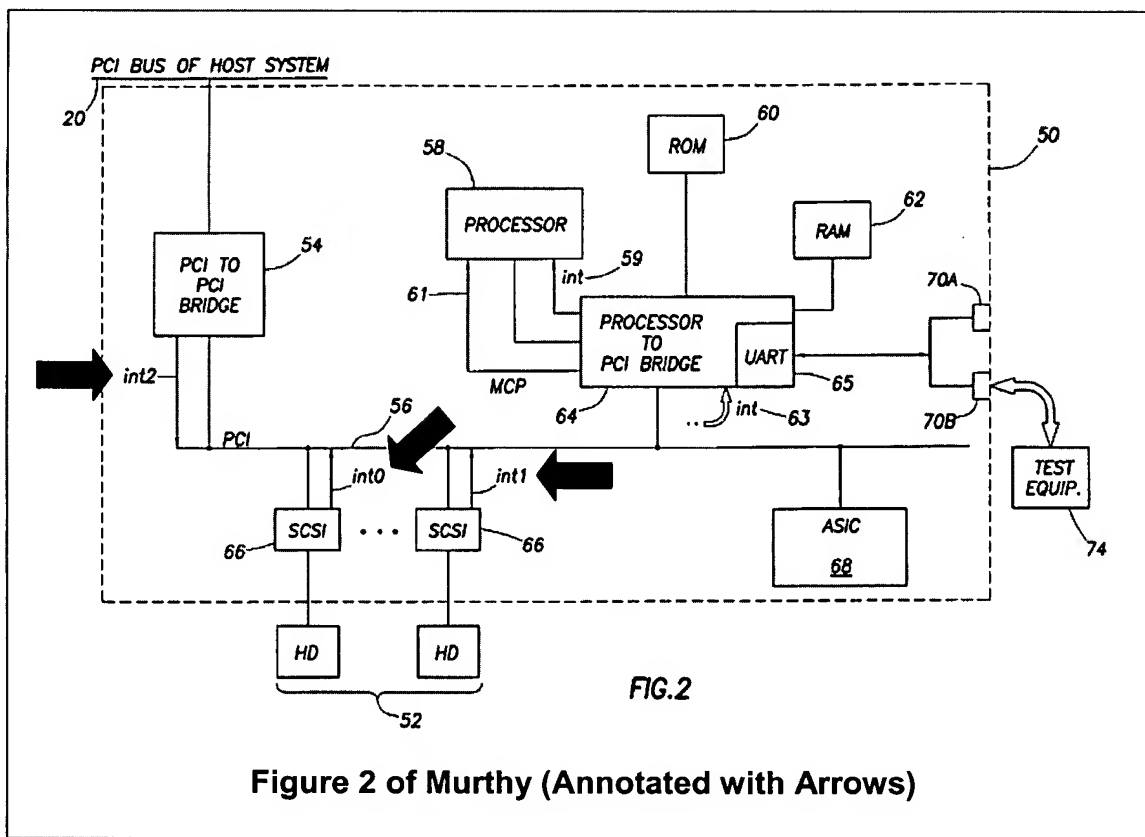



Figure 2 of Murthy (Annotated with Arrows)

Hence, it is respectfully submitted that the relied upon disclosure does teach or suggest the “counting . . .” limitation of dependent claim 5.

Therefore, it is respectfully submitted that the §102(e) rejection of the independent claims cannot be sustained because Murthy expressly states that its processor does not implement non-maskable interrupts. It is also respectfully submitted that dependent claim 5 is patentable on its own merit because the relied-upon description listing the reference numbers used in drawing figure 2 alone does not teach or disclose a process step of “counting the number of times the non-maskable interrupt signal is generated.”

Respectfully submitted,

  
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